MEDPAC RECOMMENDS DECREASING PAYMENTS FOR HOSPITAL OUTPATIENT SERVICES

Recently, the Medicare Payment Advisory Commission ("MedPAC") recommended that Congress reduce or eliminate the Medicare reimbursement differences between hospital-based departments and freestanding physician practices for certain services. If Congress enacts legislation based on this recommendation, hospitals could see a decrease in Medicare revenue of 0.6% or $1.1 billion per year.

SUMMARY

MedPAC's proposal would reduce the payment for services that fall within 66 Ambulatory Payment Classifications ("APCs") when furnished in hospital departments to more closely mirror the payment received for the same services at freestanding physician clinics under the Medicare Physician Fee Schedule. This would have a significant effect on hospitals that operate provider-based clinics. Currently, clinics that are provider-based to hospitals are reimbursed under the outpatient prospective payment system ("OPPS"). Operating a clinic as provider-based usually, but not always, results in increased Medicare reimbursement for those services.

To be paid as a hospital department under OPPS, provider-based clinics must meet a number of requirements to demonstrate that the clinic is integrated with the main provider. As a result of integrating with the main provider, provider-based clinics tend to incur additional costs over their freestanding counterparts. Paying provider-based clinics under the OPPS is intended, in part, to compensate clinics for the additional costs of being operated as a part of the main hospital provider. This recommendation means that hospitals would essentially be paid the same as freestanding physician offices for certain services provided in provider-based clinics.

MedPAC recommended reducing reimbursement for services performed in hospital-based departments in the past, but so far no such legislation has been enacted. Notably, an early version of the Middle Class Tax Relief & Jobs Creation Act of 2012 ("Act") contained a provision that would have paid for hospital outpatient clinic visits (HCPCS codes 99201-99215) based on the Medicare Physician Fee Schedule rate for non-facility settings. This provision, however, was removed prior to the Act being signed into law by the President.

It is important to note that as part of the 2014 OPPS Final Rule, CMS finalized a policy that eliminated the five levels of hospital outpatient clinic visit codes for both new and established patients (HCPCS codes 99201-99215) and replaced them with a new HCPCS code (G0463) that represents a single level of facility payment for all hospital outpatient clinic visits (except emergency room visits). The new HCPCS code applies to outpatient clinic visits paid under the OPPS regardless of the level of effort and whether the patient is a new or established patient. However, freestanding offices and clinics are still reimbursed based on the five levels of clinic visit codes for both new and established patients (HCPCS codes 99201-99215). Although MedPAC has proposed site-neutral payments for outpatient clinic visits in the past, it is unclear how or if MedPAC's recommendation would address or incorporate these outpatient clinic visits given the change in payment methodology for outpatient clinic visits effective for 2014.

The recommendation for site-neutral payments will appear in MedPAC's report to Congress, which will be released in March. The American Hospital Association opposes MedPAC's recommendations because hospitals already lose money on Medicare services and any further reductions could endanger a hospital's ability to provide emergency care. Although Congress is not required to follow MedPAC's proposals, MedPAC could shape legislative debate or action, especially in light of the current political pressures to reduce federal spending.

PRACTICAL TAKEAWAYS

1. If MedPAC's recommendations are implemented, hospitals would see a decrease in Medicare reimbursement for certain services provided in hospital outpatient departments, including provider-based clinics.
2. Hospitals, especially those operating provider-based clinics, should determine how MedPAC's recommendations, if enacted, will affect their Medicare reimbursement.
3. Hospitals should engage in a comprehensive legislative strategy to respond to MedPAC's recommendations. Although industry associations are addressing the issue in Washington, hospitals should consider supplementing those efforts by engaging a federal advocacy advisor who can express to representatives and senators how this change would adversely impact their facilities and the

patients they serve.

4. MedPAC's recommendations are for revisions to OPPS payment. Therefore, payment to critical access hospital ("CAH") provider-based sites and hospital-based rural health clinics (CAH or otherwise), would not be affected by this proposal, if enacted.

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